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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,284	11/26/2003	Debargha Mukherjee	200310816-1	1159

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FORT COLLINS, CO 80527-2400

EXAMINER
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BATES, KEVIN T

ART UNIT	PAPER NUMBER
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2155

MAIL DATE	DELIVERY MODE
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09/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/724,284

Applicant(s)

MUKHERJEE ET AL.

Examiner

Kevin Bates

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-19,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) 1-10,20-32,35 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

This Office Action is in response to a communication received on August 31, 2007.

Claims 1-10, 20-32, and 35-36 are withdrawn as non-elected claims.

Claims 11-19 and 33-34 are pending in this application.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 11-19 and 33-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 11, 33 and 34 are comprised of the limitations of specifying receiving attributes and imposing constraints based upon measures of the attributes. These steps of the invention are further detailed in the specification on Page 20, line 22 – Page 21, line 18. This portion of the specification clearly shows that steps of specifying, measuring, and imposing constraints are no more than algorithmic functions and there is no provided practical application of those algorithmic functions located in any of the claims.

"The mathematical formula involved here has no substantial practical application except in connection with a digital computer, which means that if the judgment below is affirmed the patent would wholly preempt the mathematical formula and in practical

effect would be a patent on the algorithm itself". Gottschalk v. Bension, 409 U.S. 63, 71-72 (1972).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 11, 33, and 34 are rejected under 35 U.S.C. 112, second paragraph,** as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Regarding claims 11, 33, and 34,** it is unclear based on the claims how constraints are imposed on the measures of the attributes. It is also unclear how the steps of specifying attributes and imposing constraints enable comparisons between scaling attributes and receiving attributes.

**Claims 11-13, 16, 19, 33, and 34** recite the limitation "the attributes." There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 11-19 and 33-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Xie (7260261).**

**Regarding claims 11, 33, and 34,** Xie teaches a method for enabling comparison between scaling attributes and receiving attributes at a receiving destination, comprising: specifying receiving attributes based on measures of the attributes (Column 5, lines 44 – 57); and imposing constraints on the measures of the attributes (Column 6, lines 57 – 61).

**Regarding claim 12,** Xie teaches the method of claim 9, wherein measures of the attributes comprise a linear combination of products of univariate functions of attribute values (Column 14, lines 7 – 27).

**Regarding claim 13,** Xie teaches the method of claim 11, wherein measures of the attributes further comprise at least one constraint on definable multivariate functions (Column 8, lines 29 – 43).

**Regarding claim 14,** Xie teaches the method of claim 11, wherein the receiving attributes specified comprise limit constraints applicable to functions of said receiving attributes (Column 8, lines 29 – 43).

**Regarding claim 15,** Xie teaches the method of claim 11, wherein the receiving attributes specified comprise optimization constraints applicable to functions of said receiving attributes (Abstract).

**Regarding claim 16,** Xie teaches the method of claim 13, wherein the products comprise product terms, and wherein definable multivariate functions comprise at least

one from a group comprising: number of product terms in the linear combination; number of elements in each product term; attribute codes for attributes in each product term; function codes for univariate functions on attribute values; and multipliers for at least one linear combination (Column 8, lines 29 – 43).

**Regarding claim 17**, Xie teaches the method of claim 14, wherein the limit constraints comprise at least one from a group comprising: maximum supportable values for the receiving destination for at least one measure; and minimum supportable values for the receiving destination for at least one measure (Column 11, lines 53 – 65).

**Regarding claim 18**, Xie teaches the method of claim 15, wherein optimization constraints comprise specify at least one from a group comprising: minimization of attribute measures; and maximization of attribute measures (Column 11, lines 53 – 65).

**Regarding claim 19**, Xie teaches the method of claim 11, wherein measures of the attributes comprise stack functions (Column 5, lines 24 – 32).

### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 5953506 issued to Kalra, because it teaches scaling media for receiving devices.

U. S. Patent Application Publication 2003/0237053 by Chen, because it teaches using functions on images based on client attributes.

U. S. Patent Application Publication 2004/0078357 by LaChapelle, because it teaches a method of sending scaled media over a network.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

92-T BT

Kevin Bates  
September 13, 2007